IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 1192 of 2004

Between:

Y.S.R.K.P.V. Prasad, S/o. Parameswara RAo,
R/o. Kopparru Village, Narasapur Mandal, West Godavari District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Agriculture and Cooperation (Coop.V) Department
rep by Secretary to Government.
2 The Joint Registrar / District Cooperative Officer,
West Godavari District, Eluru.
3 The President, Primary Agriculture Cooperative Credit Society,
Koppparu, Narasapur Mandal, West Godavari District.
4 Primary Agriculture Cooperative Credit Society, Koppparu, Narasapur Mandal, West Godavari District, represented by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the order of the 1st respondent passed in G.O.Rt.No.946 dated 1.11.2003 confirming the order of the 2nd respondent passed in Rc.No.1546/97 dated 16.12.1997 and the order of termination dated 6.6.1996 by the 3rd respondent as illegal arbitrary and is in violation of principles of natural justice and consequently direct the 3rd respondent to reinstate the petitioner into service with all back wages and attended benefits.

Counsel for the Petitioner:G.JHANSI

Counsel for the Respondent Nos 1 and 2: GP FOR COOPERATION

Counsel for the Respondent No.3: None appeared.

Counsel for the Respondent No.4: Rule Nisi sent not yet returned served.

The Court made the following :

ORDER:

The petitioner was originally appointed as a Clerk in the 4th respondent-Primary Agricultural Cooperative Society in the year 1992. Since he was qualified to work as Salesman, he was posted as Salesman, which is equivalent to that of a Clerk. On the allegation that the petitioner has misappropriated an amount of Rs.479/-, the Society placed him under suspension by order dated 6.6.1996, against which he filed an appeal under Section 12 (3) of the Special Bye-laws and the said appeal was dismissed by the 2nd respondent by order dated 16.12.1997. Questioning the said order, the petitioner filed W.P.No.2114 of 1998. This court while disposing of the said writ petition on 23.4.1999 directed the petitioner to file a revision before the appropriate authority and accordingly the petitioner filed a revision

before the Government under Section 77 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'), against the order of dismissal made by the Society. The Government entertained the revision and passed orders in G.O.Rt.No.946 dated 1.11.2003 dismissing the revision.

Learned counsel appearing for the petitioner submits that under Section 77 (2) of the Act, the revisional authority is bound to give an opportunity of making representation to the revision petitioner and pass appropriate orders, but in the instant case, without giving any notice to the petitioner, his revision is dismissed. The allegation against the petitioner is that he indulged in tampering of records of the Society and misappropriated an amount of Rs.479/-. Learned counsel further submits that the quantum of punishment imposed by the Society and confirmed by the Government is excessive and disproportionate. The said punishment imposed by the respondents shocks the conscience of the court and, therefore, to cut short the litigation, this being the 3rd round of litigation, instead of remanding the matter, this court can take appropriate view by imposing the punishment in proportionate to the misconduct committed by the petitioner.

Admittedly, as no notice is given to the petitioner while disposing of the revision and since the said amount was only found to be misappropriated while auditing the accounts of the Society, I am of the opinion that the punishment imposed by the Society is excessive and arbitrary.

Having regard to the facts and circumstances of the case, the writ petition is disposed of and the removal order made by the Society

as confirmed by the Government is set aside and the respondents 3 and 4 are directed to reinstate the petitioner into service as a fresh candidate against any of the vacancies of the approved staffing pattern of the Society. The petitioner is not entitled for any back wages or continuity of service. No costs.

14.9.2004

cvm

To,

1 The Secretary to the Government of Andhra Pradesh, Agriculture and Cooperation (Coop.V) Department.
2 The Joint Registrar / District Cooperative Officer,
West Godavari District, Eluru.
3 The President, Primary Agriculture Cooperative Credit Society,
Koppparu, Narasapur Mandal, West Godavari District.
4 The Secretary, Primary Agriculture Cooperative Credit Society,
Koppparu, Narasapur Mandal, West Godavari District.

5 2 CCs to G.P. for Cooperation, High Court of A.P., Hyderabad (OUT).

6 2 CD copies.